

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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YONG JIE LI, individually and on behalf of all :
 other employees similarly situated, MAO YUE :
 JIAN, LI YANG JIE, ZHANG LI SHENG, and :
 WU GANG, :
 :
 Plaintiffs, :
 :
 :
 -against- :
 :
 LYCHEE HOUSE, INC., HONG SHENG :
 CHENG, XIAN YONG ZENG and JOHN DOE :
 and JANE DOE #1-10, :
 :
 :
 Defendants. :
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15-CV-1646 (VEC)

ORDER

VALERIE CAPRONI, United States District Judge:

The Defendants have moved for summary judgment. An extended discussion of the arguments in favor and opposed to the motion is not necessary as there are obvious questions of fact that must be resolved by a jury. At a minimum, the following questions of fact exist:

1. Did Defendants provide the Plaintiffs with the legally-required notice that they would be taking a “tip credit” against the required minimum wage?
2. How many hours did the Plaintiffs actually work? Are the time cards an accurate record of the number of hours the Plaintiffs worked, or did the Plaintiffs take breaks during their shifts that were non-compensable time?
3. Are the payroll records an accurate reflection of the number of hours worked or are they simply a record of the schedule, without regard to the number of hours that were actually worked?

4. Who signed the payroll records? If someone other than the employee to whom the record related signed, did that signatory have authority from the employee and knowledge of the actual number of hours worked?
5. Are Hong Sheng Cheng and Xian Yong Zeng “employers” within the meaning of the Fair Labor Standards Act and the New York Labor Law?

Accordingly, Defendants’ motion for summary judgment is DENIED. The parties are ordered to appear for a status conference on **April 22, 2016**, at 10:00 a.m. On or before April 15, 2016, the parties must submit a joint letter to the court proposing three Mondays that would be mutually acceptable to begin the trial. The proposed dates may not be earlier than June 13, 2016 and may not be later than August 1, 2016.

The Clerk of Court is respectfully requested to close Docket Entry 54.

SO ORDERED.

Date: April 1, 2016
New York, New York



VALERIE CAPRONI
United States District Judge